



17 CV 8627

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BROKER GENIUS, INC,

Plaintiff,

v.

SEAT SCOUTS LLC and
DREW GAINOR

Defendants.

Civil Action No. _____

**ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

Upon the affidavits of Shmuel Sherman and Eric Koskinen, sworn to the 6th day of November, 2017, and upon the copy of the complaint hereto annexed, it is

ORDERED, that the above named defendants show cause before a motion term of

✓ this Court, at Room 23A, United States Courthouse, 500 Pearl Street, in the City, County and
✓ State of New York, on December, 19, at ¹⁰10 o'clock in the fore noon
thereof, or as soon thereafter as counsel may be heard, why an order should not be issued
pursuant to Rule 65 of the Federal Rules of Civil Procedure preliminarily enjoining the
defendants, and all persons in active concert or participation with them, during the pendency of
this action:

- (a) From using or providing or making available, whether by sale or otherwise, to any third party the Command Center video, product and services, including providing further services to any now existing client or potential client using or training to use the Command Center product and services.

- (b) from destroying, or disposing any evidence or other materials, in any form, relating to this action and the issues raised herein, including, without limitation, all devices, electronic media, cloud storage, and all copies of any and all documents, media and/or other materials, containing, identifying, describing, reflecting or referencing Broker Genius' confidential, proprietary, or trade secret information, and any and all documents, data and information which was obtained by them from, or by virtue of their relationship with Broker Genius, including all current or archived media, emails, chats, texts, documents, electronic logs, metadata, storage and directories;
- (c) from accessing, disclosing, making available to any person or entity, or using any of Broker Genius' confidential, proprietary, or trade secret technology or information;
- (d) from violating their confidentiality agreement obligations to Broker Genius, including without limitation the portions of the Terms of Use agreement prohibiting the use or disclosure of Broker Genius' confidential, proprietary, or trade secret information;
- (e) and granting such other and further relief as to the Court may seem just and proper; and it is further

ORDERED, that sufficient reason having been shown therefor, the following temporary restraints and injunctions shall be in effect enjoining defendants, pending the hearing of plaintiff's application for a preliminary injunction pursuant to Rule 65 of the Fed. R. Civ. P.:

- (a) from using or providing or making available, whether by sale or otherwise, to any third party the Command Center video, product and services including providing further services

to any now existing client or potential client using or training to use the Command Center product and services. SHS

- (b) from destroying, or disposing any evidence or other materials, in any form, relating to this action and the issues raised herein, including, without limitation, all devices, electronic media, cloud storage, and all copies of any and all documents, media and/or other materials, containing, identifying, describing, reflecting or referencing Broker Genius' confidential, proprietary, or trade secret information, and any and all documents, data and information which was obtained by defendants from, or by virtue of their relationship with Broker Genius, including all current or archived media, emails, chats, texts, documents, electronic logs, metadata, storage and directories;
- (c) from accessing, disclosing, making available to any person or entity, or using any of Broker Genius' confidential, proprietary, or trade secret technology or information;
- (d) from violating their confidentiality agreement obligations to Broker Genius, including without limitation the portions of the Terms of Use agreement prohibiting the use or disclosure of Broker Genius' confidential, proprietary, and/or trade secret information;
- (e) directing Defendants, and all those acting in concert or participation with them, (i) to deliver immediately to Broker Genius all copies of all documents, materials and other media, whether in paper form or in an electronic medium, containing Broker Genius' confidential, proprietary, or trade secret information that they possess or have in their custody or control, (ii) immediately identify all email accounts used by each defendant, all websites, hosting vendors and/or servers on which Defendants use or store any of Broker Genius' confidential and trade secret information and technology, cloud data storage SHS

accounts along with the user names and passwords for those accounts to allow Plaintiff to recover its confidential business information and trade secrets misappropriated; and it is further

SHS

ORDERED, that Defendants and each of them shall preserve, and take steps to prevent the automatic or intentional deletion or modification of, all databases, cloud storage accounts including Dropbox, electronic files, emails, texts, media and computer hard drives that may contain information related to this action; and it is further

✓ ORDERED that security in the amount of \$ 10,000. be posted by the

✓ plaintiff prior to Nov., 13, 2017 at 5 o'clock in the ^{pm}noon of that day; and it is further

ORDERED, that personal service of a copy of this Order and the annexed papers upon which it is based upon the defendants at the following addresses specified in the summons and Complaint, or upon their counsel, on or before 5 o'clock ~p.m., on November 10, 2017 shall be deemed good and sufficient service thereof:

Defendant Drew Gainor – 5706 Belmont Valley Ct., Raleigh, North Carolina 27612

Defendant Seat Scouts LLC - Andrew J. Hilger, 5170 Leavenworth St., Omaha, Nebraska 68106

Defendant Seat Scouts LLC - 7202 Giles Road, Suite 4 #330, La Vista, Nebraska 68128

*Preliminary injunction hearing Tuesday, Dec 19, 2017 at 10 A.M.
November 9, 2017
NYS*

*So ordered
[Signature]
U.S.D.S.*